

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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GEORGIA PACIFIC CONSUMER PRODUCTS,
FORT JAMES CORPORATION, and
GEORGE-PACIFIC LLC,

Civil Action No.

Plaintiffs, 1:11-cv-00483-RJJ

vs.

NCR CORPORATION, INTERNATIONAL
PAPER CO., and WEYERHAEUSER
COMPANY,

Defendants.

-----*

VIDEOTAPED 30(B)(6) DEPOSITION OF

NCR, by and through its designee,

EDWARD R. GALLAGHER

Wednesday, January 25, 2012

New York, New York

10:21 a.m.

Reported by:

Josephine H. Fassett, RPR, CCR

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January 25, 2012

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<p style="text-align: right;">2</p> <p>1 Wednesday, January 25, 2012</p> <p>2 New York, New York</p> <p>3 10:21 a.m.</p> <p>4</p> <p>5 T R A N S C R I P T of the Videotaped</p> <p>6 30(b)(6) Deposition of NCR, by and through its</p> <p>7 designee, EDWARD R. GALLAGHER, taken by the</p> <p>8 Plaintiffs, held at the offices of Cravath, Swaine</p> <p>9 & Moore LLP, 825 Eighth Avenue, New York, New York,</p> <p>10 on Wednesday, January 25, 2012, commencing at 10:21</p> <p>11 a.m., before Josephine H. Fassett, a Registered</p> <p>12 Professional Reporter, Certified Court Reporter,</p> <p>13 Certified Livenote Reporter and Notary Public of the</p> <p>14 State of New York.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">4</p> <p>1 A P P E A R A N C E S (cont'd) :</p> <p>2</p> <p>3 BAKER HOSTETLER LLP</p> <p>4 Attorneys for Defendant International Paper Co.</p> <p>5 PNC Center</p> <p>6 1900 East 9th Street</p> <p>7 Suite 3200</p> <p>8 Cleveland, Ohio 44114-3482</p> <p>9 BY: JOHN D. PARKER, ESQ.</p> <p>10 jparker@bakerlaw.com</p> <p>11</p> <p>12</p> <p>13 PERKINS COIE LLP</p> <p>14 Attorneys for Defendant Weyerhaeuser Company</p> <p>15 1201 Third Avenue</p> <p>16 Suite 4800</p> <p>17 Seattle, Washington 98101-3099</p> <p>18 BY: J. CHRISTOPHER BAIRD, ESQ.</p> <p>19 jcbaird@perkinscoie.com</p> <p>20</p> <p>21 ALSO PRESENT:</p> <p>22 MARCELO RIVERA, Videographer</p>
<p style="text-align: right;">3</p> <p>1 A P P E A R A N C E S :</p> <p>2</p> <p>3 HUNTON & WILLIAMS LLP</p> <p>4 Attorneys for Plaintiffs</p> <p>5 Riverfront Plaza</p> <p>6 East Tower</p> <p>7 951 East Byrd Street</p> <p>8 Richmond, Virginia 23219</p> <p>9 BY: DOUGLAS M. GARROU, ESQ.</p> <p>10 dgarrou@hunton.com</p> <p>11 JOSEPH C. KEARFOTT, ESQ.</p> <p>12 jkearfott@hunton.com</p> <p>13</p> <p>14</p> <p>15 CRAVATH, SWAINE & MOORE LLP</p> <p>16 Attorneys for Defendant NCR Corporation</p> <p>17 825 Eighth Avenue</p> <p>18 New York, New York 10019-7475</p> <p>19 BY: DARIN P. McATEE, ESQ.</p> <p>20 dmcatee@cravath.com</p> <p>21</p> <p>22</p>	<p style="text-align: right;">5</p> <p>1 I N D E X</p> <p>2 WITNESS PAGE</p> <p>3 EDWARD R. GALLAGHER</p> <p>4 By Mr. Garrou 8,191</p> <p>5 By Mr. Parker 186</p> <p>6</p> <p>7 AFTERNOON SESSION - 99</p> <p>8</p> <p>9 E X H I B I T S</p> <p>10 EXHIBIT DESCRIPTION PAGE</p> <p>11 Exhibit 49 Plaintiffs' Amended Notice of</p> <p>12 30(b)(6) Deposition of NCR</p> <p>13 Corporation and Request for</p> <p>14 Production of Documents 7</p> <p>15 Exhibit 50 Impact Paper Report dated</p> <p>16 August 31, 1953 28</p> <p>17 Exhibit 51 The NCR News Article dated</p> <p>18 May 1954 33</p> <p>19 Exhibit 52 NCR Factory News Article dated</p> <p>20 December 1958 36</p> <p>21 Exhibit 53 NCR Factory News Article dated</p> <p>22 March 1967 39</p>

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<p style="text-align: right;">6</p> <p>1 E X H I B I T S</p> <p>2 EXHIBIT DESCRIPTION PAGE</p> <p>3 Exhibit 54 NCR Factory News Article dated</p> <p>4 February 1966 41</p> <p>5 Exhibit 55 NCR Factory News Article dated</p> <p>6 June 1964 48</p> <p>7 Exhibit 56 Memorandum dated January 23, 1970 52</p> <p>8 Exhibit 57 NCR World Article dated</p> <p>9 November-December 1970 63</p> <p>10 Exhibit 58 NCR World Article dated</p> <p>11 January-February 1971 97</p> <p>12 Exhibit 59 Compilation of Attachments to</p> <p>13 30(b)(6) Deposition Notice 101</p> <p>14 Exhibit 60 International Paper's Notice of</p> <p>15 Rule 30(b)(6) Deposition of</p> <p>16 Defendant NCR Corporation 186</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">8</p> <p>1 525, Washington, D.C.</p> <p>2 Will present counsel please introduce</p> <p>3 themselves for the record.</p> <p>4 MR. GARROU: Doug Garrou representing</p> <p>5 Plaintiffs.</p> <p>6 MR. KEARFOTT: Joseph Kearfott with</p> <p>7 Hunton & Williams representing the</p> <p>8 Plaintiffs.</p> <p>9 MR. PARKER: John Parker with Baker &</p> <p>10 Hostetler representing International Paper.</p> <p>11 MR. BAIRD: Chris Baird from Perkins</p> <p>12 Coie for Weyerhaeuser.</p> <p>13 MR. McATEE: Darin McAtee from Cravath</p> <p>14 for NCR.</p> <p>15 THE VIDEOGRAPHER: Will the court</p> <p>16 reporter please swear in the witness.</p> <p>17 E D W A R D R . G A L L A G H E R , the witness,</p> <p>18 having been duly sworn, was examined and</p> <p>19 testified under oath as follows:</p> <p>20 EXAMINATION BY</p> <p>21 MR. GARROU:</p> <p>22 Q Good morning, Mr. Gallagher.</p>
<p style="text-align: right;">7</p> <p>1 (Plaintiffs' Amended Notice of 30(b)(6)</p> <p>2 Deposition of NCR Corporation and Request for</p> <p>3 Production of Documents premarked as Exhibit</p> <p>4 49, as of this date.)</p> <p>5 (Whereupon, on the video record.)</p> <p>6 THE VIDEOGRAPHER: This is DVD No. 1 of</p> <p>7 the video deposition of Mr. Ed Gallagher in</p> <p>8 the matter Georgia-Pacific Consumer Products,</p> <p>9 et al. versus NCR Corporation, International</p> <p>10 Paper Company, et al., in the United States</p> <p>11 District Court for the Western District of</p> <p>12 Michigan, Southern Division.</p> <p>13 This deposition is being held at the law</p> <p>14 offices of Cravath, Swaine & Moore, located</p> <p>15 at 825 Eighth Avenue, New York, New York, on</p> <p>16 January 25th, 2012, at approximately 10:21</p> <p>17 a.m.</p> <p>18 My name is Marcelo Rivera from the firm</p> <p>19 of Henderson Legal Services.</p> <p>20 The court reporter is Josephine Fassett</p> <p>21 in association with Henderson Legal Services,</p> <p>22 located at 1015 15th Street, Northwest, Suite</p>	<p style="text-align: right;">9</p> <p>1 A Good morning.</p> <p>2 Q Could you please state your full name</p> <p>3 and employment position?</p> <p>4 A Edward Ray Gallagher. I'm a law vice</p> <p>5 president at NCR Corporation.</p> <p>6 Q And when you're not testifying as a</p> <p>7 30(b)(6) witness, what do your job duties consist</p> <p>8 of?</p> <p>9 A I manage our litigation and employment</p> <p>10 law group.</p> <p>11 Q Okay. Have you brought any documents</p> <p>12 with you in connection with your testimony today?</p> <p>13 A I have not.</p> <p>14 Q All right. I'd like to have you take a</p> <p>15 look at what I've marked as Exhibit 49.</p> <p>16 Do you recognize that as the Notice of</p> <p>17 30(b)(6) Deposition that you're testifying in</p> <p>18 response to today?</p> <p>19 A (Reviews.)</p> <p>20 Yes, I do.</p> <p>21 Q Okay. When you first reviewed that</p> <p>22 notice, did you have firsthand knowledge of any of</p>

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<p style="text-align: right;">10</p> <p>1 the topics that are set forth in that notice?</p> <p>2 A Well, certainly not in the sense of</p> <p>3 being a percipient witness, no.</p> <p>4 Q All right.</p> <p>5 A I did -- no, I guess not.</p> <p>6 Q I'm sorry, I didn't hear that last part.</p> <p>7 A No, I did not.</p> <p>8 Q Okay. And, are you designated to</p> <p>9 testify on all of the specifications listed in</p> <p>10 that Exhibit 49?</p> <p>11 A I am.</p> <p>12 Q So it's fair to say that your testimony</p> <p>13 on those topics will be based on documents that</p> <p>14 you've reviewed and/or people you've talked to,</p> <p>15 correct?</p> <p>16 A Yes, that's correct.</p> <p>17 Q All right. And so you didn't review any</p> <p>18 documents that ever refreshed your firsthand</p> <p>19 recollection of any matters that are set forth in</p> <p>20 the, in the notice; did you?</p> <p>21 A Would you repeat that, please?</p> <p>22 MR. GARROU: Can I have that read back,</p>	<p style="text-align: right;">12</p> <p>1 preparing for your deposition today?</p> <p>2 A John Hartje and Jennifer Daniels.</p> <p>3 Q Could you spell Mr. Hartje's last name?</p> <p>4 A H-a-r-t-j-e.</p> <p>5 Q And Daniels is D-a-n-i-e-l-s?</p> <p>6 A Correct.</p> <p>7 Q And what topics did you discuss with</p> <p>8 Mr. Hartje?</p> <p>9 A Only who would be an appropriate witness</p> <p>10 to respond to the notice.</p> <p>11 Q All right. What topics did you discuss</p> <p>12 with Ms. Daniels in connection with your</p> <p>13 testimony?</p> <p>14 A The same.</p> <p>15 Q And the conclusion was that you would be</p> <p>16 the appropriate witness, I take it?</p> <p>17 A I'm certainly the ultimate conclusion.</p> <p>18 Q All right. Did you --</p> <p>19 THE WITNESS: Can we take a short -- I</p> <p>20 want to get some water.</p> <p>21 MR. GARROU: Sure.</p> <p>22 THE WITNESS: If I could take a quick</p>
<p style="text-align: right;">11</p> <p>1 please.</p> <p>2 (Whereupon, the requested portion was</p> <p>3 read back by the Reporter:</p> <p>4 "Question: And so you didn't review any</p> <p>5 documents that ever refreshed your firsthand</p> <p>6 recollection of any matters that are set</p> <p>7 forth in the notice; did you?")</p> <p>8 A No, I did not.</p> <p>9 Q All right. How did you prepare for your</p> <p>10 deposition today?</p> <p>11 A I had some conversations, initially with</p> <p>12 counsel and with colleagues at NCR.</p> <p>13 I reviewed several documents, met with</p> <p>14 counsel, and inquired of counsel as to the topics</p> <p>15 on at least a couple of occasions. Probably spent</p> <p>16 about 50 hours on it.</p> <p>17 Q All right. And when did you start that</p> <p>18 process?</p> <p>19 A I believe in December, but most was in</p> <p>20 January.</p> <p>21 Q All right. Which of your colleagues at</p> <p>22 NCR did you speak with in connection with</p>	<p style="text-align: right;">13</p> <p>1 break.</p> <p>2 MR. GARROU: Sure.</p> <p>3 MR. McATEE: I'll get you some.</p> <p>4 THE WITNESS: Thanks.</p> <p>5 BY MR. GARROU:</p> <p>6 Q In preparation for your testimony today,</p> <p>7 did you have any discussions with former NCR</p> <p>8 employees?</p> <p>9 A I did not.</p> <p>10 Q Same question with respect to the former</p> <p>11 employees of Appleton Papers, Incorporated. Did</p> <p>12 you have any contact with them in connection with</p> <p>13 preparing for your deposition?</p> <p>14 A No.</p> <p>15 Q Maybe the easiest way to do this is:</p> <p>16 Other than the two people that you</p> <p>17 mentioned, Mr. Hartje and Ms. Daniels, did you</p> <p>18 have any conversations with anyone other than</p> <p>19 counsel in preparation for your deposition today?</p> <p>20 A I don't recall that I did.</p> <p>21 Q All right.</p> <p>22 A It's possible that our environmental</p>

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<p style="text-align: right;">18</p> <p>1 depositions -- well, strike that.</p> <p>2 Is the Martin deposition that you</p> <p>3 referred to the deposition of Leon Martin taken in</p> <p>4 this case?</p> <p>5 A Sounds correct.</p> <p>6 Q All right. A former employee at the</p> <p>7 Kalamazoo mill?</p> <p>8 A I believe that's right.</p> <p>9 Q Did you review a deposition of</p> <p>10 Mr. Lacey, L-a-c-e-y?</p> <p>11 A I think that I did.</p> <p>12 Q How about a Mr. Edgerton? Did you</p> <p>13 review a deposition in this case by Gene Edgerton?</p> <p>14 A I know the name, I'm not sure that I</p> <p>15 reviewed the testimony.</p> <p>16 Q The same question with respect to George</p> <p>17 Hunter. Did you read a deposition by Mr. George</p> <p>18 Hunter taken in this case?</p> <p>19 A I don't recall that name.</p> <p>20 Q All right. You mentioned that you</p> <p>21 reviewed newsletters. What newsletters did you</p> <p>22 review?</p>	<p style="text-align: right;">20</p> <p>1 submissions from NCR at some point in time?</p> <p>2 A The documents I understand were produced</p> <p>3 either in the 104(e) or in this litigation.</p> <p>4 Possibly in the Fox River litigation.</p> <p>5 Q All right. You mentioned progress</p> <p>6 reports. What progress reports did you review?</p> <p>7 A I think it was the title given to these</p> <p>8 reports that came from the Portage, Wisconsin</p> <p>9 plant.</p> <p>10 Q That's NCR's Portage, Wisconsin plant?</p> <p>11 A It was, yes.</p> <p>12 Q And what internal memoranda do you</p> <p>13 recall reviewing?</p> <p>14 A There were several. There were reports</p> <p>15 of research activity. And others. I don't really</p> <p>16 have specific recollections of them.</p> <p>17 Q All right. Did you review any resources</p> <p>18 from the Internet?</p> <p>19 A I did not.</p> <p>20 Q Did you review any governmental or</p> <p>21 regulator reports?</p> <p>22 A No, no, I didn't.</p>
<p style="text-align: right;">19</p> <p>1 A They were internal Appleton or NCR</p> <p>2 newsletters. They, I believe, were in the 104(e)</p> <p>3 production.</p> <p>4 Q Did those include, or, among those</p> <p>5 materials, were there any NCR Factory News</p> <p>6 publications?</p> <p>7 A I don't recall seeing that title.</p> <p>8 Q All right. What titles do you recall</p> <p>9 seeing, if any?</p> <p>10 A There might have been something called</p> <p>11 Appleton Scene, I'm not certain.</p> <p>12 Q I think you got that right.</p> <p>13 Anything else you recall?</p> <p>14 A I think I did see other newsletters, but</p> <p>15 I don't recall titles.</p> <p>16 Q All right. What financial records did</p> <p>17 you review?</p> <p>18 A I remember some Appleton financial</p> <p>19 reports for, I think 1969.</p> <p>20 Q Did you review any documents in</p> <p>21 preparation for your testimony today, other than</p> <p>22 depositions, that were not part of the 104(e)</p>	<p style="text-align: right;">21</p> <p>1 Q Did you review any documents in the form</p> <p>2 of electronic images as opposed to paper</p> <p>3 documents?</p> <p>4 A I did not.</p> <p>5 Q Did you review any summaries or other</p> <p>6 accounts of witness interviews?</p> <p>7 A I think the only thing was a summary</p> <p>8 attached to one of the expert witness reports, or</p> <p>9 at least that came from an expert witness and was</p> <p>10 produced.</p> <p>11 Q And what expert witness report was that?</p> <p>12 A Again, I'm not certain it was the</p> <p>13 report, but it -- I think Mr. Moore, but I'm not</p> <p>14 certain.</p> <p>15 Q And do you know whether the report that</p> <p>16 you read was something that was produced in the</p> <p>17 Fox litigation?</p> <p>18 A I believe that it was.</p> <p>19 Q And by "produced," to be more clear, I</p> <p>20 mean disclosed to the other side.</p> <p>21 A That's what I meant.</p> <p>22 Q Okay. Did you review any investigators'</p>

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<p style="text-align: right;">22</p> <p>1 reports?</p> <p>2 A No.</p> <p>3 Q Did you review any newspaper articles?</p> <p>4 A I don't think so. I don't know if any</p> <p>5 happened to be included in the old materials, I</p> <p>6 don't remember any specifically.</p> <p>7 Q All right. I take it, it would not be</p> <p>8 possible for you to tell me precisely which</p> <p>9 documents you looked at in preparation for this</p> <p>10 deposition as you sit here, correct?</p> <p>11 A I could tell you some, but I certainly</p> <p>12 couldn't tell you all of them.</p> <p>13 Q All right. Did you review any summaries</p> <p>14 of documents provided to you by counsel?</p> <p>15 A No.</p> <p>16 Q Did you review any documents that were</p> <p>17 marked privileged or work product?</p> <p>18 A I did not.</p> <p>19 Q Have you completed your review in</p> <p>20 preparation for your deposition today?</p> <p>21 A Yes, I have.</p> <p>22 Q And do you feel that you were given</p>	<p style="text-align: right;">24</p> <p>1 facilities.</p> <p>2 Q All right. So the reference to</p> <p>3 Mr. Stutz's testimony you think referred to a</p> <p>4 research rather, which would be, I guess, Topic 7,</p> <p>5 not Topic 6; is that correct?</p> <p>6 A It would probably fit 7 better than 6.</p> <p>7 Q All right. I'll save it for 7 then.</p> <p>8 What business activities did NCR engage</p> <p>9 in in Dayton, Ohio, that made use of</p> <p>10 PCB-containing CCP?</p> <p>11 MR. McATEE: Could I have that back?</p> <p>12 (Whereupon, the requested portion was</p> <p>13 read back by the Reporter:</p> <p>14 "Question: What business activities did</p> <p>15 NCR engage in in Dayton, Ohio, that made use</p> <p>16 of PCB-containing CCP?")</p> <p>17 (Whereupon, discussion off the audio</p> <p>18 record.)</p> <p>19 MR. McATEE: So, Doug, I don't think</p> <p>20 that's one of the topics he's being put up</p> <p>21 for today.</p> <p>22 BY MR. GARROU:</p>
<p style="text-align: right;">23</p> <p>1 adequate time to do so?</p> <p>2 A I do.</p> <p>3 Q All right. I'd like to move to the --</p> <p>4 some of the specifications in the notice.</p> <p>5 And I'd like to start first with</p> <p>6 Specification No. 6.</p> <p>7 What did you review to prepare yourself</p> <p>8 to testify on Specification No. 6?</p> <p>9 MR. McATEE: Let him read 6.</p> <p>10 MR. GARROU: Sure.</p> <p>11 MR. McATEE: Since you threw me for a</p> <p>12 loop, because I thought you'd start with 1.</p> <p>13 MR. GARROU: Tricky Richmond lawyer.</p> <p>14 A (Reads.)</p> <p>15 With respect to Specification 6, there</p> <p>16 were relatively few documents in the record that</p> <p>17 related to this. There was, Mr. Stutz had made</p> <p>18 some remarks in his deposition. Although this,</p> <p>19 that was in connection with his research work.</p> <p>20 And I don't believe, while we're still looking at</p> <p>21 the matter, I don't think we found anything as to</p> <p>22 general recycling at the Dayton headquarters or</p>	<p style="text-align: right;">25</p> <p>1 Q You can go ahead.</p> <p>2 A I took this to refer to use in offices</p> <p>3 and recycling of that material. And the extent to</p> <p>4 which it was used in offices we haven't found to</p> <p>5 this point any indications. That's, that's how I</p> <p>6 understood the question.</p> <p>7 Q All right. I take it you're not able to</p> <p>8 answer any of the subparts of Topic 6, in light of</p> <p>9 what you've just said; is that correct?</p> <p>10 A That's correct.</p> <p>11 Q Are you familiar with NCR's printing</p> <p>12 division?</p> <p>13 A Well, there isn't one today. And I</p> <p>14 don't recall there was something, an entity or a</p> <p>15 division by that name in the past.</p> <p>16 Q All right. So you've never undertaken</p> <p>17 any investigation regarding the activities and</p> <p>18 paper handling practices of NCR's printing</p> <p>19 division in Dayton?</p> <p>20 A I'm familiar with other businesses that</p> <p>21 worked with paper, but, you know, don't recall the</p> <p>22 name printer division.</p>

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14 (Pages 50 to 53)

<p style="text-align: right;">50</p> <p>1 Q All right. Where have you looked for</p> <p>2 those materials?</p> <p>3 A In the documents that have been</p> <p>4 generated. I did review this document before the</p> <p>5 deposition. And -- and -- not personally but</p> <p>6 through interviews of former employees.</p> <p>7 Q All right. Is NCR aware of any former</p> <p>8 employees who were involved in coating operations</p> <p>9 in Dayton, Ohio?</p> <p>10 MR. McATEE: Who were involved in that?</p> <p>11 MR. GARROU: Yes, sir.</p> <p>12 A There's certainly memoranda that talk</p> <p>13 about some of the tests and that's -- and the</p> <p>14 research work. I don't recall their names. But</p> <p>15 that may be what's referred to here.</p> <p>16 Q Have you completed your answer?</p> <p>17 A Oh, yes, I have.</p> <p>18 Q Sorry.</p> <p>19 What was the disposition of the</p> <p>20 documents associated with the Research Division</p> <p>21 Pilot Plant in Dayton?</p> <p>22 A I'm not aware of that disposition.</p>	<p style="text-align: right;">52</p> <p>1 And there are references to materials being sent</p> <p>2 to Appleton, Dayton, Mead, or being held at a</p> <p>3 customer location. But there's a reference to a</p> <p>4 small warehouse of an indeterminate location in</p> <p>5 one memo.</p> <p>6 Q Do you know anything about that</p> <p>7 warehouse?</p> <p>8 A I don't.</p> <p>9 Q What investigation did you undertake in</p> <p>10 preparation for testifying on Specification 8?</p> <p>11 A It's primarily a review of documents in</p> <p>12 the record that indicated the sorts of things I</p> <p>13 was just mentioning.</p> <p>14 Q All right. Are you able to identify</p> <p>15 those documents with any more specificity than you</p> <p>16 just did?</p> <p>17 A There was a memo from a Mr. McClenahan</p> <p>18 that referenced some of that. Others appear in</p> <p>19 several different documents, and I can't recall</p> <p>20 their identifying details now.</p> <p>21 (Memorandum dated January 23, 1970</p> <p>22 marked as Exhibit 56, as of this date.)</p>
<p style="text-align: right;">51</p> <p>1 Q All right. Do you know whether the</p> <p>2 Research Division Pilot Plant still exists in</p> <p>3 Dayton?</p> <p>4 A It does not.</p> <p>5 Q Do you know when it would have been</p> <p>6 deactivated?</p> <p>7 A No, I don't.</p> <p>8 Q All right.</p> <p>9 All right. Moving to Specification No.</p> <p>10 8 in Exhibit 49.</p> <p>11 A (Complies.)</p> <p>12 Q With respect to any operation that</p> <p>13 produced carbonless copy paper for NCR in Dayton</p> <p>14 or otherwise, are you aware of the manufacture of</p> <p>15 any finished CCP that was not ultimately sold to a</p> <p>16 customer?</p> <p>17 A I've seen references in some of the</p> <p>18 documents about customer complaints. And to</p> <p>19 subsequent testing.</p> <p>20 Q Do you recall which documents those are?</p> <p>21 A Several of the research reports or</p> <p>22 activity reports reference customer complaints.</p>	<p style="text-align: right;">53</p> <p>1 BY MR. GARROU:</p> <p>2 Q I'm going to hand you what I think may</p> <p>3 be that document marked as Exhibit 56. Could you</p> <p>4 take a look at that for me?</p> <p>5 A (Reviews.)</p> <p>6 Q Is this the memo from Mr. McClenahan you</p> <p>7 were referring to earlier?</p> <p>8 A Yes, it is.</p> <p>9 Q All right. The -- the person being</p> <p>10 described here, Daniel McIntosh, Section Manager</p> <p>11 NCR Technical Services, do you know who that is?</p> <p>12 A Only by name.</p> <p>13 Q All right. Do you know whether that</p> <p>14 was, in fact, his title as of January 1970?</p> <p>15 A I don't have a reason to doubt it.</p> <p>16 Q Do you know whether NCR's lawyers</p> <p>17 represent Mr. McIntosh?</p> <p>18 A I don't know.</p> <p>19 Q Did you ever ask to be put in touch with</p> <p>20 Mr. McIntosh in preparation, as a part of</p> <p>21 preparation for your deposition today?</p> <p>22 A I understand he's very ill and so I did</p>

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19 (Pages 70 to 73)

<p style="text-align: right;">70</p> <p>1 generated there.</p> <p>2 Q All right. When was that? And by</p> <p>3 "broke" do you mean PCB-containing CCP broke?</p> <p>4 A I do.</p> <p>5 Q All right. When was that PCB-containing</p> <p>6 CCP broke generated at the Washington Court House</p> <p>7 facility?</p> <p>8 A I believe in this 1960s, perhaps other</p> <p>9 times.</p> <p>10 Q All right. What's that belief based on?</p> <p>11 A From the inquiries I made prior to the</p> <p>12 dep or in preparation for the deposition.</p> <p>13 Q All right. And did you -- did those</p> <p>14 inquiries include speaking with any people?</p> <p>15 A Not outside of counsel.</p> <p>16 Q All right. Aside from counsel, did you</p> <p>17 obtain any information from any person that led</p> <p>18 you to believe that there was some CCP broke and</p> <p>19 trim containing PCBs generated at Washington Court</p> <p>20 House in the 1960s?</p> <p>21 THE WITNESS: I'm sorry, I lost that.</p> <p>22 MR. GARROU: Let me ask that one over.</p>	<p style="text-align: right;">72</p> <p>1 your questions.</p> <p>2 BY MR. GARROU:</p> <p>3 Q Well, am I correct that your only</p> <p>4 information regarding the generation of</p> <p>5 PCB-containing broke at Washington Court House</p> <p>6 came to you in connection with discussion with</p> <p>7 counsel?</p> <p>8 MR. McATEE: Object to form.</p> <p>9 A I don't recall any others.</p> <p>10 Q All right. What did you learn from</p> <p>11 counsel regarding the creation of PCB-containing</p> <p>12 broke and trim at Washington Court House?</p> <p>13 A I wanted to know if there had been some,</p> <p>14 and I understood that there was, and I don't --</p> <p>15 well, that's -- that was my main purpose.</p> <p>16 Q All right. So aside from being told</p> <p>17 that by counsel, are you aware of any facts</p> <p>18 supporting your belief that PCB-containing CCP</p> <p>19 broke and trim was generated at Washington Court</p> <p>20 House?</p> <p>21 A No, I don't recall any specific facts.</p> <p>22 Q What led you to believe that it was</p>
<p style="text-align: right;">71</p> <p>1 That was terrible.</p> <p>2 BY MR. GARROU:</p> <p>3 Q Aside from speaking with counsel, did</p> <p>4 anyone else provide you with facts leading you to</p> <p>5 believe that in the 1960s, and perhaps other</p> <p>6 times, the Washington Court House operation</p> <p>7 generated PCB-containing CCP broke?</p> <p>8 A I can't recall any other communications.</p> <p>9 Q All right. How about documents? Did</p> <p>10 you review any documents leading you to believe</p> <p>11 that that broke was generated in the 1960s and</p> <p>12 perhaps other times?</p> <p>13 A I don't think we've located any</p> <p>14 documents to that effect.</p> <p>15 Q All right. Do you know what facts</p> <p>16 formed the basis for your counsel's discussion</p> <p>17 with you regarding the creation of PCB-containing</p> <p>18 CCP broke at Washington Court House?</p> <p>19 MR. McATEE: Object to form.</p> <p>20 Can you just ask that without counsel in</p> <p>21 the question? He's here to talk as a</p> <p>22 representative of the company in answering</p>	<p style="text-align: right;">73</p> <p>1 generated in the 1960s and possibly other times?</p> <p>2 A I don't think -- it wouldn't have come</p> <p>3 after 1970, '71 when we stopped doing CCP broke,</p> <p>4 or stopped using Aroclor 1242. And the reason for</p> <p>5 other times, I don't recall how long the facility</p> <p>6 had been in use.</p> <p>7 From the reference in Exhibit 57, it's</p> <p>8 highly likely it was in place in 1970 and</p> <p>9 therefore I'm presuming it was doing work in the</p> <p>10 sixties.</p> <p>11 Q You said that you wouldn't expect it to</p> <p>12 have been generated after 1970 or 1971 due to the</p> <p>13 fact that NCR stopped using Aroclor 1242. Is that</p> <p>14 an accurate summary of what you said?</p> <p>15 A That's correct.</p> <p>16 Q All right. When, in fact, did NCR stop</p> <p>17 using Aroclor 1242?</p> <p>18 A I don't recall the exact date, it was in</p> <p>19 '70 or '71.</p> <p>20 Q Okay. You can't narrow it down any</p> <p>21 further than that?</p> <p>22 A I could, but not as I sit here today.</p>

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35 (Pages 134 to 137)

<p style="text-align: right;">134</p> <p>1 Q Are you familiar with the term</p> <p>2 backhauling?</p> <p>3 A I am.</p> <p>4 Q Are you familiar with any evidence</p> <p>5 suggesting that carbonless broke was backhauled by</p> <p>6 truck from the Appleton plant?</p> <p>7 A I think Mr. Edgerton may have suggested</p> <p>8 that.</p> <p>9 Q Do you have any reason to think he's</p> <p>10 incorrect about that?</p> <p>11 A It's not consistent with the testimony</p> <p>12 of the people that actually handled the broke</p> <p>13 sales.</p> <p>14 Q All right. So NCR doesn't believe that</p> <p>15 any carbonless broke was backhauled from the</p> <p>16 Appleton plant between 1953 and 1971?</p> <p>17 A That's right.</p> <p>18 Q The brokers that you've identified as</p> <p>19 being the ones that NCR believes purchased</p> <p>20 carbonless broke from Appleton, those brokers</p> <p>21 being National Fiber, Continental and Golper, is</p> <p>22 that the same collection of brokers that NCR</p>	<p style="text-align: right;">136</p> <p>1 A I have seen nothing to that effect.</p> <p>2 Q All right.</p> <p>3 A Nor heard of it.</p> <p>4 Q During what time period did the Combined</p> <p>5 Locks Mill create PCB-containing carbonless broke?</p> <p>6 A It did some trial runs in the</p> <p>7 mid-sixties, as I recall, and then resumed in the</p> <p>8 late-sixties. In -- not resumed, it commenced</p> <p>9 some regular production in the late-sixties.</p> <p>10 Q All right. Have you been able to</p> <p>11 estimate for any year the amount of PCB-containing</p> <p>12 carbonless broke that would have been generated by</p> <p>13 the Combined Locks Mill?</p> <p>14 A No. The -- you'd have to do some of the</p> <p>15 same inferences based on shipment of emulsion from</p> <p>16 Portage, much as we had discussed several minutes</p> <p>17 ago with respect to Appleton, both for volume and</p> <p>18 PCB quantities.</p> <p>19 Q All right. And -- and have you</p> <p>20 conducted those estimates?</p> <p>21 A No. I have not tried to create the</p> <p>22 experiment for that or the -- identify the</p>
<p style="text-align: right;">135</p> <p>1 believes obtained PCB-containing carbonless broke</p> <p>2 from Combined Locks?</p> <p>3 A We believe so.</p> <p>4 Q All right. So would your answers with</p> <p>5 respect to carbonless broke leaving the Appleton</p> <p>6 plant and what brokers it went to and how it was</p> <p>7 transported, would those answers all be the same</p> <p>8 for the Combined Locks plant?</p> <p>9 A Yes.</p> <p>10 Q All right. So you believe that the</p> <p>11 Combined Locks plant -- strike that.</p> <p>12 You believe that any PCB-containing</p> <p>13 carbonless broke from the Combined Locks plant</p> <p>14 would have been transported away from that</p> <p>15 facility by rail?</p> <p>16 A Yes.</p> <p>17 Q And you don't believe any would have</p> <p>18 been transported by truck?</p> <p>19 A We've seen nothing to suggest that.</p> <p>20 Q All right. And you don't believe any</p> <p>21 would have been transported by truck to</p> <p>22 Mr. Golper's facility in particular?</p>	<p style="text-align: right;">137</p> <p>1 assumptions you'd have to make.</p> <p>2 Q Does NCR have any idea of the volume,</p> <p>3 annual or otherwise, of PCB-containing CCP broke</p> <p>4 that was generated at the Combined Locks Mill?</p> <p>5 A At this point, not beyond what I just</p> <p>6 mentioned. We may engage an expert to do that.</p> <p>7 Q All right. With respect to</p> <p>8 PCB-containing carbonless broke from either the</p> <p>9 Appleton plant or from the Combined Locks Mill,</p> <p>10 does NCR have any knowledge with respect to where</p> <p>11 that broke ended up?</p> <p>12 A Again, based on the testimony of the</p> <p>13 individuals from the Purchasing Department, they</p> <p>14 indicated they were aware or had become aware that</p> <p>15 it was going to the mills in the Fox River.</p> <p>16 Although that was not true for any particular</p> <p>17 shipment because the brokers tended to guard their</p> <p>18 business and their customer identities carefully.</p> <p>19 Q All right. What portion does NCR</p> <p>20 believe -- strike that.</p> <p>21 With respect to carbonless -- strike</p> <p>22 that.</p>